

Department of the Army
US Army Military Intelligence Center
Fort Huachuca, Arizona 85613

FH Regulation 27-10

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Legal Services

MILITARY JUSTICE

Summary. This regulation supplements policies and procedures in Army Regulation 27-10, Military Justice. Relevant portions of AR 27-10, Military Justice, are cross-referenced following the headings of paragraphs in this supplement.

Applicability. This regulation applies to all Active Army and Reserve Component service members on active duty, annual training, or inactive duty training; Army National Guard (ARNG) in a duty status under Title 10, U.S. Code; or service members on initial active duty for training (except Advanced Individual Training (AIT) service members on split training option), who are assigned or attached to any unit assigned or attached to Fort Huachuca. This includes all units, organizations, detachments, and activities under the court-martial jurisdiction of the Commander, U.S. Army Intelligence Center and Fort Huachuca (USAIC&FH).

Supplementation. Supplementation of this regulation is prohibited without approval from the proponent.

Suggested Improvements. The proponent of this regulation is the Fort Huachuca Office of the Staff Judge Advocate (OSJA). Users may send comments and suggested improvements on DA Form 2028, via e-mail or to the following address: Commander, USAIC & Fort Huachuca (ATZS-JA), Fort Huachuca, Arizona 85613-7025.

Availability. This publication is available on the Fort Huachuca homepage at <http://huachuca-www.army.mil>.

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Chapter 1

Introduction

1-1 Purpose. (AR 27-10, para. 1-1)

This regulation prescribes the specific policies and procedures pertaining to the administration of military justice within the command and areas of responsibility of the Commander, USAIC&FH. The policies and limitations herein do not impose or create jurisdictional requirements or procedural prerequisites on courts-martial or nonjudicial punishment (NJP) proceedings, and do not confer rights upon any accused.

1-2 References. (AR 27-10, para. 1-2)

Required and related publications and referenced forms are available electronically. Fort Huachuca publications and forms are available at <http://huachuca-www.army.mil> and higher echelon publications and forms are available at <http://www.usapa.army.mil>.

1-3 Responsibilities. (AR 27-10, para. 1-4)

a. General Court-Martial Convening Authority (GCMCA).

(1) The Commander, United States Army Intelligence Center and Fort Huachuca (USAIC&FH) and the Commander, United States Army Network Enterprise Technology Command and 9th Army Signal Command (NETCOM) are GCMCAs.

(2) The Commander, USAIC&FH will be the primary GCMCA for all service members to whom this regulation applies. (See paragraph 5-1, below.)

b. Subordinate Commanders. All other commanders will be familiar with the nature and extent of their authority for the administration of military justice, as set forth in the UCMJ and other applicable laws and regulations. Commanders are encouraged to communicate directly with assigned trial counsel. Commanders ordinarily should consult with trial counsel before initiating disciplinary action to ensure the contemplated action is in proper form and supported by available evidence.

c. The Staff Judge Advocate (SJA) is responsible for:

(1) The overall supervision and administration of military justice at Fort Huachuca.

(2) The assignment, professional development, and career management of all judge advocates (MOS 27A), warrant officers (MOS 270A), paralegal NCOs/specialists (MOS 27D),

civilian attorneys assigned to the Office of the Staff Judge Advocate, and legal support personnel (collectively referred to as legal personnel) assigned to Fort Huachuca or to tenant organizations on Fort Huachuca that have approved support agreements, except the Fort Huachuca CECOM and ITEC4-W legal offices. The reassignment of paralegal NCOs/specialists (MOS 27D) out of the 11th Signal Brigade will be coordinated with, and require the concurrence of, the 11th Signal Brigade Commander.

d. The Chief, Military Justice Division is responsible for Military Justice Division operations and coordination of military justice actions on Fort Huachuca, including advising commanders and senior NCOs (ordinarily first sergeants and sergeants major), and for the training, assignment, and supervision of trial counsel.

e. The Commander, USAIC&FH delegates to the Chief Paralegal NCO (CPNCO) and the Legal Administrator authority to sign Block 14 of DD Form 458, Charge Sheet, court-martial orders, and all promulgating orders and documents necessary to facilitate the expeditious processing of post-trial matters, upon direction of a convening or other proper authority.

f. The SJA may nominate experienced judge advocates to serve as military magistrates. If approved, such officers may authorize the search for and seizure of evidence for use in a trial by court-martial, and may conduct hearings into the propriety of pretrial confinement (PTC). In order to ensure their independence, military magistrates perform these duties under the supervision of the Office of the Circuit Judge, Third Judicial Circuit, Fort Bliss, Texas. Due to the nature of their duties, military magistrates shall be exempt from all duty rosters.

1-4 Senior Defense Counsel. (AR 27-10, Chapter 6)

The Senior Defense Counsel, Fort Huachuca Field Office, United States Army Trial Defense Service (USATDS), is responsible for the detail, supervision, and control of military defense counsel services within Fort Huachuca and all attached units. The SJA will provide the local USATDS office with personnel and logistical support IAW AR 27-1, Judge Advocate Legal Service, para. 9-2, and AR 27-10, Military Justice, para. 6-4.

1-5 Inquiries.

Refer inquiries regarding the administration of military justice at Fort Huachuca to the OSJA, Military Justice Division (ATZS-JAE), Fort Huachuca, Arizona 85613-7025, (520) 533-0587.

Chapter 2

Legal Personnel

2-1 Consolidated Legal Center.

To ensure the timely and efficient provision of legal services and legal instruction on Fort Huachuca, all legal personnel assigned to the U.S. Army Garrison, 111th Military Intelligence Brigade (excluding 344th Military Intelligence Battalion), and Headquarters and Headquarters Company, NETCOM, will be consolidated at the OSJA. The SJA has overall supervisory authority over the consolidated legal center, its personnel, and operations. The CPNCO has supervisory authority over all enlisted legal personnel. This includes, but is not limited to, responsibility for unit and duty assignments, training, and professional development of all paralegal specialists.

2-2 11th Signal Brigade Legal Personnel.

Legal personnel assigned to 11th Signal Brigade and its subordinate units will work directly for their assigned units at a location determined by the Commander, 11th Signal Brigade. The CPNCO, in coordination with the 11th Signal Brigade Command Sergeant Major and the Brigade Senior Paralegal NCO, is directly responsible for the legal training and professional development of all paralegal specialists within the brigade.

2-3 Duties and Responsibilities of Judge Advocate Officers. (AR 27-10, para. 5-3)

a. Judge advocates will serve as the OSJA on-call duty officer as directed by the SJA. With SJA approval, judge advocates may serve as investigating officers (IOs) under Article 32, UCMJ; as recorders for administrative separation boards; or as military magistrates. No officer performing prosecutorial functions will be detailed to serve as an Article 32 investigating officer or military magistrate.

b. Commanders seeking legal advice will discuss the matter fully with trial counsel. After normal duty hours, commanders should contact their assigned trial counsel. If a commander cannot contact the trial counsel or a legal problem arises requiring immediate attention, contact the OSJA on-call duty officer. The MP Desk and Post Staff Duty Officer maintain an on-call judge advocate duty roster.

c. Judge advocates assigned to Fort Huachuca shall not perform non-legal duties, except in emergencies and with the approval of the SJA. Judge advocates typically serve on one or more on-call rosters designed to ensure continuity of legal services after normal duty hours. Judge advocates will not serve as Staff Duty Officer, Field Grade Officer of the Day, or perform duties of a similar nature. Their names will be removed from rosters for assignment to non-legal duties.

2-4 Duties and Responsibilities of Paralegal Specialists and Paralegal NCOs.

- a. The SJA is responsible for the training and assignment of all Paralegal Specialists and Paralegal NCOs.
- b. As a specialty field, MOS-related duties of paralegals take priority over non-MOS duties. Legal personnel are exempt from non-legal duties, which, in the judgment of the SJA, could present a potential conflict of interest with official legal duties. Requests for reconsideration will be submitted through command channels for approval by the SJA.
- c. To avoid interference with the judicial process and conflicts of interest, the CPNCO, the NCOIC of the Military Justice Division, the 11th Signal Brigade Senior Paralegal NCO, the installation court reporter, and any person performing court reporter duties will not perform non-legal duties.
- d. To maintain a robust and well-trained paralegal corps, brigade paralegals should attend regularly scheduled Sergeants Time Training conducted by the OSJA.
- e. All brigade paralegals will report consolidated monthly statistical data for their brigade concerning all formal and summarized Article 15 proceedings by completing Section A of DA Form 3169-R (Report of Judicial Disciplinary Activity in the Army). Completed reports for the previous reporting period are due to the Military Justice Division, OSJA NLT the first workday of the month.

Chapter 3 Policies and Procedures for Nonjudicial Punishment

3-1 Policies Applicable to Article 15 Proceedings. (AR 27-10, Chapter 3, Section III)

- a. Article 15 proceedings will be conducted IAW AR 27-10, Military Justice, Chapter 3. In the event of a conflict between this regulation and AR 27-10, Military Justice, the latter is controlling.
- b. After the commander reads a service member an Article 15, the service member will be given a copy of the DA Form 2627 (Record of Proceedings under Article 15, UCMJ) and copies of all documentary evidence on which the allegation is based, to include names of witnesses or individuals who have knowledge of facts in the case. The Soldier must have the packet to meet with the TDS to determine whether to accept NJP or demand trial by court-martial. When documents do not exist, the service member will be furnished with names and locations, if known, of witnesses. This information is essential for the defense counsel to advise the Soldier properly. Documents need not be generated to meet this requirement.

c. Commanders imposing NJP will forward Article 15 appeals by memorandum to the Military Justice Division, OSJA. The memorandum will state that the imposing commander has considered the substance of the appeal. Imposing commanders may rebut any allegations made by the service member in the appeal. All appeals forwarded for action by the Commander, USAIC&FH will be accompanied by the service member's ERB (or ORB in a case where authority to impose punishment under Article 15, UCMJ has been released) and a copy of the record showing that the personnel records of the service member have been flagged IAW AR 600-8-2, Suspension of Favorable Personnel Actions (FLAGS).

d. DA Form 5110-R (Article 15 Reconciliation Log) will be used by all paralegal specialists assigned to units within Fort Huachuca's GCMCA jurisdiction. The senior paralegal assigned to the 11th Signal Brigade is the official custodian of all local records of NJP imposed within the 11th Signal Brigade. The NCOIC, Military Justice Division, is the official custodian of all local records of NJP for all other units and organizations on Fort Huachuca.

3-2 Reservation of Authority to Impose Nonjudicial Punishment. (AR 27-10, para. 3-7d)

a. The Commander, USAIC&FH, withholds the authority to impose NJP under Article 15, UCMJ on commissioned officers, warrant officers, sergeants major, first sergeants, and master sergeants. The authority to impose NJP on sergeants first class is withheld from company and battalion commanders and reserved to the Special Court-Martial Convening Authorities (SPCMCA) specified in this regulation.

b. SPCMCA's will promptly notify the Commander, USAIC&FH of credible allegations of misconduct by commissioned officers, warrant officers, sergeants major, first sergeants and master sergeants assigned or attached to their commands. An act of "misconduct" includes any misconduct or violation of the UCMJ, local, state, or federal law. Ordinarily, it is unnecessary to wait for a complete report of investigation before making notification under this paragraph.

c. Commanders may recommend that the Commander, USAIC&FH impose NJP under Article 15, UCMJ on a commissioned officer, warrant officer, sergeant major, first sergeant, or master sergeant subject to that commander's military justice jurisdiction. Recommendations will be forwarded through command channels to the Military Justice Division. Each recommendation will include a detailed account of the incident, including sworn statements of witnesses and other evidence, a copy of the service member's Officer or Enlisted Record Brief (ORB/ERB), and a copy of the record showing that the personnel records of the service member have been flagged IAW AR 600-8-2, Suspension of Favorable Personnel Actions (FLAGS). The request will not include any recommendation concerning the type or severity of punishment.

d. When the Commander, USAIC&FH decides to impose NJP, a designated commander in the service member's chain of command (CoC), or for sergeants major, a designated senior NCO

will normally notify the officer or NCO of that decision. When the Commander, USAIC&FH conducts NJP proceedings, the accused's company commander, battalion commander, and brigade commander will be present for the hearing. When NJP proceedings involve an NCO, supervisory NCOs will also be present.

e. Commanders may request in writing that the Commander, USAIC&FH release Article 15 authority. Request for release of Article 15 jurisdiction will include specific reasons for the request and be coordinated with the SJA.

3-3 Imposition of Nonjudicial Punishment for Routine On-Post Traffic Offenses. (AR 27-10, paras. 3-7d and 23-1)

a. The authority of all commanders to impose punishment under Article 15, UCMJ, for routine on-post traffic offenses, including those involving military vehicles, is withdrawn. The phrase "routine traffic offenses" includes, but is not limited to, excessive speed, failure to observe traffic signs, minor moving violations not resulting in personal injury, and similar offenses. The phrase "minor traffic offenses" does not include drunk or reckless driving offenses, or those involving military vehicle accidents in maneuver areas.

b. The Military Justice Division will process routine traffic offenses that occur on Fort Huachuca in U.S. Magistrate's Court. In exceptional circumstances, any commander may request, in writing, an exception to policy to permit Article 15 punishment for an on-post traffic offense. Forward such requests through command channels to the Military Justice Division for final decision. The Chief, Military Justice Division, will approve or disapprove such requests after consulting with the SJA. Nothing in this regulation precludes administrative actions in accordance with FH 190-5.

3-4 Correctional Custody Prohibited. (AR 27-10, para. 3-19)

The imposition of correctional custody as punishment under Article 15, UCMJ, is prohibited.

Chapter 4

Miscellaneous Provisions

4-1 Federal Assimilative Crimes Act.

Under the Federal Assimilative Crimes Act, 18 U.S.C. §13, commanders may adopt Arizona state criminal law for misconduct on Fort Huachuca proscribed by state law, provided federal criminal law, including the UCMJ, has not defined an applicable offense for the act of misconduct. For example, by operation of law, the Arizona minimum drinking age (21 years) is in force on Fort Huachuca for civilians and service members. Thus, persons under the age of 21 who consume, transfer, possess, use, or sell alcoholic beverages on Fort Huachuca in a manner that would violate Arizona law if done off the installation, are subject to prosecution in the U.S. District Court for the District of Arizona or an appropriate U.S. Magistrate Court.

4-2 Legal Drinking Age.

As noted above, the minimum legal drinking age in Arizona is 21 years, and Army regulations provide that the legal drinking age on an installation shall mirror the legal age for the local community. Accordingly, no person under the age of 21 years shall buy, receive, possess, transport, sell, use, or consume alcoholic beverages on Fort Huachuca. Additionally, while on Fort Huachuca, no person shall sell, give, serve, or furnish alcoholic beverages to a person under the age of 21 years. Violations of this paragraph may subject an offender to punitive action under the UCMJ, adverse administrative action, or action under applicable Federal law and military regulations.

4-3 Processing Off-Post Drunk Driving Cases.

Fort Huachuca commanders have concurrent jurisdiction with the state to process drunk driving cases of active duty service members, no matter where the offense was committed. Processing off-post drunk driving cases through the military justice system can be accomplished faster than in most local civilian jurisdictions and results in uniform discipline for both on-post and off-post offenses. Under AR 27-10, Military Justice, para. 4-2, however, service members will not ordinarily be tried by court-martial or punished under Article 15, UCMJ if a civilian court has exercised jurisdiction over the same act. Therefore, Fort Huachuca commanders who desire to exercise jurisdiction for off-post drunk driving cases should coordinate promptly with Military Justice Division, OSJA.

4-4 Victim-Witness Assistance Program. (AR 27-10, Chapter 18)

The SJA will designate personnel in writing to act as Victim-Witness Liaisons (VWL). VWLs will be responsible primarily for the Victim Witness program under the provisions of AR 27-10,

Military Justice, Chapter 18. These persons shall coordinate with military law enforcement, criminal investigative agencies, and other military and civilian multi-disciplinary agencies to ensure that victims and witnesses of crimes obtain the name, location, and telephone number for assistance available under the Department of Defense and Department of the Army programs. Military law enforcement personnel will primarily handle the initial notification to the victims and witnesses of their rights and will provide a copy of DD Form 2701 to the individuals. The VWL or trial counsel will handle subsequent notifications and explanations of rights.

4-5 Processing General Officer Memoranda of Reprimand (GOMOR).

The SJA is responsible for processing GOMORs for drunk driving and related offenses, and all other reprimands requiring action by a general officer. Upon request, the SJA may also process administrative reprimands for other commanders. Commanders shall cooperate with the OSJA to ensure prompt service of memoranda of reprimand and shall allow service members a reasonable period to respond per AR 600-37, Unfavorable Information.

Chapter 5 Courts-Martial

5-1 Courts-Martial Jurisdiction. (AR 27-10, para. 5-2)

a. The Commander, USAIC&FH is the GCMCA for all Army personnel assigned or attached to units and organizations located on Fort Huachuca, subject to the limitations in paragraph 5-1b. Commanders of Air Force, Navy, and Marine units may consult with the OSJA concerning disposition of court-martial charges and specifications preferred against members of their commands.

b. The Commander, NETCOM is a GCMCA. The Commander, NETCOM agrees that the Commander, USAIC&FH will act as the GCMCA for referral to trial by courts-martial of all charges and specifications against service members assigned or attached to NETCOM who are also regularly assigned or attached to Fort Huachuca. The Commander, NETCOM reserves the right to refer charges and specifications in individual cases.

c. Pursuant to Article 23, UCMJ, the commanders listed below exercise SPCMCA over their assigned or attached units and personnel. These commanders are responsible for administering military justice for all military members assigned or attached to their commands. Administering military justice includes, but is not limited to, ordering service members into PTC, disposing of court-martial charges, appointing Article 32 IOs, monitoring military justice statistics and incidents of driving under the influence (DUI), processing general officer memoranda of reprimand and NJP, reducing personnel for inefficiency, and processing administrative separations.

1. Commander, U.S. Army Garrison, Fort Huachuca
2. Commander, 111th Military Intelligence Brigade (Including NCO Academy cadre)
3. Commander, 11th Signal Brigade
4. Commander, Information Systems Engineering Command
5. Commander, Intelligence Electronic Warfare Test Directorate
6. Commander, Electronic Proving Ground
7. Commander, U.S. Army Raymond W. Bliss, Huachuca Army Health Center
8. Commander, U.S. Army Dental Activity, Fort Huachuca
9. Commander, Yuma Proving Ground

d. Other personnel. Unless otherwise provided in separate attachment orders or by Memorandum of Agreement, all personnel, units, tenants, and organizations not specifically detailed, attached, or assigned to a Fort Huachuca unit will normally be attached to the United States Army Garrison, Fort Huachuca for UCMJ purposes.

e. Special Courts-Martial. The authority to refer a case to a Special Court-Martial (SPCM) or a Special Court-Martial empowered to adjudge a Bad-Conduct Discharge (SPCM/BCD) is withheld to the GCMCA level.

5-2 Preparation of Charge Sheet (DD Form 458). (AR 27-10, para. 5-15)

The Chief, Military Justice Division will review all charges and specifications, with supporting documentation, before preferral by any accuser.

5-3 Chronology and Processing of Courts-Martial. (AR 27-10, para. 5-16)

a. Per Rule for Courts-Martial (RCM) 707, an accused shall stand trial within 120 days of the earlier of preferral of charges or imposition of pretrial restraint. Failure to adhere to this standard may result in dismissal of charges.

b. When court-martial charges are preferred, or a service member is put on pretrial restriction of any kind, the responsible commander will initiate a chronology of the processing of the court-martial charges. Commanders, unit paralegal specialists, and Article 32 IOs will account for the

processing times of each court-martial by using this chronology. Any request for delay of the Article 32 proceedings will be written and presented expeditiously to the appointing authority for the appointing authority's personal decision.

5-4 Forwarding of Charges. (AR 27-10, para. 5-15)

The original court-martial packet, including the Charge Sheet (DD Form 458) and supporting documentation, will accompany all cases forwarded with recommendations for trial by GCM or SPCM.

5-5 Article 32 Investigations. (AR 27-10, para. 5-16)

- a. Fair and expeditious processing of court-martial charges enhances confidence in the fairness of our judicial system, and is instrumental in enhancing good order and discipline. Article 32, UCMJ investigations are an integral part of this process.
- b. Commanders should appoint mature field grade officers to serve as Article 32 Investigation Officers (IO). Within 24 hours after appointment, IOs will contact the Administrative Law Division, OSJA at (520) 533-5712 for advice concerning their duties.
- c. The duties of Article 32 IOs have priority over all other duties. These officers are prohibited from taking leave, pass, training holidays, or TDY without personal approval from the appointing/convening authority. This authority is not delegable. Article 32 IOs shall not be assigned other duties that interfere with the prompt disposition of their assigned cases.
- d. Article 32 IOs normally will complete their duties within 14 days of assignment. The appointing authority must personally approve any extension. Hearing officers must submit all requests for a delay in any Article 32 proceeding to the appointing authority, with a written justification showing good cause for the delay. Appointing authorities will not grant open-ended delays. The IO will maintain a chronology of the processing of the case, including any delays.
- e. All transcripts of Article 32 investigations will be summarized, unless the SJA approves a written request for a verbatim transcript, supported by a showing of good cause.

5-6 Civilian Witnesses Appearing Before Article 32 Investigations. (AR 27-10, para. 5-12)

When an Article 32 IO determines that a civilian witness is essential to the investigation of a case, is reasonably available, and is willing to appear voluntarily, the IO will submit a written request for payment of necessary transportation expenses to the OSJA before arranging for the appearance of the witness. The accused's unit will provide funds. An IO cannot compel the appearance of civilian witnesses at an Article 32 investigation.

5-7 Pretrial Punishment and Restraint. (AR 27-10, para. 5-14)

a. Article 13, UCMJ, prohibits punishment or penalty before trial by court-martial. Commanders will ensure that the service members accused of offenses are not subjected to any form of pretrial punishment, including physical or verbal abuse, demeaning or stigmatizing treatment, or any conditions that might subject the service member to public embarrassment or humiliation. Violations of Article 13, UCMJ may include the use of individual or collective nicknames and open discussion of an accused's case, offenses, or pending trial. All service members pending trial should be addressed by their name and rank at all times.

b. Pretrial restraint is the moral or physical restraint on a person's liberty imposed before or during the disposition of offenses. Pretrial restraint may consist of conditions on liberty, restriction, arrest, or confinement. Commanders must consult their trial counsel prior to imposing any restraint or conditions on the liberty of service members under investigation or pending court-martial or NJP. If a commander places an accused under arrest or restriction while pending charges, the commander will notify the assigned trial counsel in writing, setting forth the reasons why such restraint was imposed, the conditions and limits of such restraint, and when such restraint was imposed. Additionally, the commander will inform trial counsel of all actions taken against an accused pending trial, to include withholding pass or other privileges. This report will be submitted on the first duty day after restraint is imposed.

5-8 Pretrial Confinement (PTC). (AR 27-10, para. 5-14)

a. Authority to order PTC is reserved to commanders in the rank of Lieutenant Colonel (O-5) and above and to commanders (including acting commander) in the rank of Major (O-4) in command of any unit authorized a commander in the rank of Lieutenant Colonel or above. The SJA or Deputy SJA must be consulted, in advance, on any decision to order PTC. If a subordinate commander considers PTC appropriate in a particular case, that commander will contact the next higher commander and the trial counsel. In all cases, coordination with the OSJA is required before ordering PTC. After duty hours, on weekends, and on holidays, the OSJA on-call officer will provide commanders with the name and telephone number of either the trial counsel responsible for that jurisdiction or the Chief, Military Justice Division.

b. Review of PTC order.

(1) A neutral and detached officer shall evaluate the appropriateness of PTC within 48 hours of placing the service member in confinement. Within 7 days of entry into PTC, a military magistrate shall conduct a PTC hearing. If conducted within 48 hours of confinement, the PTC hearing will satisfy the requirement for a neutral and detached officer to evaluate the appropriateness of confinement. To avoid unnecessary delays and costs, commanders should seek a PTC hearing NLT 48 hours after initiation of PTC.

(2) The commander will complete the first page of DA Form 5112-R. The trial counsel will assist in completing items a-d for the commander's signature, justifying PTC.

(3) If the service member does not consult with a defense counsel immediately, the commander will arrange for consultation with counsel prior to the PTC hearing.

(4) Pretrial confinement in excess of 30 days will be approved by the GCMCA. AR 190-47, Army Corrections System, para. 3-2c(3).

c. Unit responsibilities for accused in PTC.

(1) Once a unit commander has decided PTC is necessary and proper under AR 27-10, Military Justice, Chapter 9, and Rules for Courts-Martial (R.C.M.) 305, the commander will place the service member under the physical control or observation of an escort senior in rank. Temporary use of the Fort Huachuca detention cell is authorized if approval of PTC is likely. The Fort Huachuca detention cell may be used for periods not exceeding 72 hours per AR 190-47, The Army Corrections System, para. 16-3. The unit of any soldier held in the detention cell must provide a unit representative who will remain with the detainee at all times. The unit is also responsible to provide for the welfare of the detained soldier.

(2) In most cases, a service member will be confined at a location off-post. The unit commander shall arrange transportation to and from Fort Huachuca for consultation with defense counsel, attendance at hearings, or to stand trial. When notified by trial counsel or the Article 32 IO that the accused's presence is required, the unit commander will ensure that the accused returns on time and in the proper military uniform, presents a proper military appearance, is properly escorted and guarded, and is provided the necessary meals.

(3) While in PTC, the accused will remain a member of the command. Therefore, the unit commander is responsible for the health and welfare of the accused. The unit commander or first sergeant will visit the accused at least once each month.

(4) If at any time the commander believes that PTC is no longer justified, the commander will take immediate steps to release the service member.

5-9 Expeditious Court-Martial Processing. (AR 27-10, para. 5-16)

a. All commanders must ensure compliance with the processing time guidelines set forth in the appendix to this regulation. These guidelines are promulgated to assist the command in the prompt administration of military justice and do not confer rights upon an accused.

b. Charges and allied papers forwarded to the GCMCA will be submitted through the Military Justice Division, OSJA.

5-10 Unit Responsibilities for Trial. (AR 27-10, Section IV)

Responsibilities of unit commanders. Once notified by the OSJA of the date and time for trial, the accused's commander will ensure that:

a. The accused and all witnesses in the accused's unit are in proper uniform (usually Class A, unless otherwise specified by the military judge) with all appropriate awards, decorations, and patches and that they present a neat military appearance.

b. The accused reports, under an escort or guard, to the accused's defense counsel at least 30 minutes before trial, or earlier, if timely requested by defense counsel.

c. Witnesses report to the trial counsel at the appointed time and date in the appropriate uniform.

d. An NCO is appointed to serve as the bailiff. The bailiff will read the Bailiff Standard Operating Procedures before trial and report to the NCOIC, Military Justice NLT 30 minutes before trial.

e. Three service members are appointed to serve as escorts. At least one of the service members will be an officer or NCO senior in rank to the accused, and at least one will be the same gender as the accused. One service member will be a properly licensed military driver.

f. The accused is prepared for post-trial confinement. The accused's escorts are to report to the NCOIC, Military Justice, for a mandatory briefing at least three days before trial. The NCOIC will explain the confinement, clearing, and travel process.

5-11 Court-Martial Members. (AR 27-10, para. 5-10)

a. Selection to perform duty as a court-martial member is a singularly important duty. Court member duties take priority over all regularly assigned duties. To enable this command to fulfill its responsibilities under the UCMJ, it is important that each member serve when called.

b. Once selected to sit on a scheduled court-martial, members will be excused only in an emergency or if extreme circumstances warrant excusal. Direct all requests for excusal in writing through command channels to the SJA NLT one week prior to the period of requested excusal. Per R.C.M. 505(c), the SJA is delegated authority to excuse no more than one third of the court-martial members prior to assembly of the court.

5-12 Discharge in Lieu of Trial by Court-Martial. (AR 27-10, para. 5-17)

Under AR 635-200, Active Duty Enlisted Administrative Separations, Chapter 10, enlisted service members charged with offenses punishable by a punitive discharge may request discharge in lieu of trial by court-martial. Commanders will pay prompt attention to such requests, particularly where immediate discharge is warranted. The written request for discharge, signed by the accused and the defense counsel, will be hand-carried through established court-martial channels. Forwarding endorsements will reflect the commander's evaluation of the request for administrative discharge, considering all the facts, circumstances and rationale for recommending approval or disapproval. This is especially critical where key factors leading to the recommendation are not apparent from the correspondence itself; for example, the seriousness of the offense, unusual mitigating or extenuating circumstances, or alleged involvement by the accused in subsequent misconduct forming the basis for additional but unprocessed charges or similar considerations.

5-13 Procedures for Summary Courts-Martial. (AR 27-10, para. 5-22)

a. Any officer who may convene a GCM or SPCM may also convene a summary court-martial (SCM). However, Article 24, UCMJ also vests authority in all battalion commanders to convene SCMs. Commanders will not refer a case to trial by SCM without the prior advice of a trial counsel or the Chief, Military Justice.

b. Only field grade officers or experienced captains will be detailed as SCM officers.

c. SCM Officers may seek advice only from a legal advisor appointed by the Administrative Law Division, OSJA. SCM officers shall contact the Administrative Law Division within 24 hours of receipt of appointment orders [(520) 533-5712].

d. The duties of SCM officers take priority over all other duties. These officers shall not take leave, pass, training holidays, or TDY without personal approval from the convening authority. This authority is not delegable. SCM officers shall not be assigned other duties that interfere with the prompt disposition of their assigned cases.

e. SCM officers will ordinarily complete these assigned duties within 14 days of assignment. The convening authority must personally approve any extension. SCM officers

must submit all requests for a delay to the convening authority, with a written justification showing good cause. Convening authorities will not grant open-ended delays.

5-14 Publishing Court-Martial Results of Trial and Articles 15. (AR 27-10, para. 5-29)

Commanders may publish court-martial results in unofficial publications of Fort Huachuca, such as “The Fort Huachuca Scout.” Commanders also may publish court-martial results on unit bulletin boards, along with records of NJP. Social Security numbers and the names of any victims will be deleted or masked before posting.

Appendices

Appendix A -- SCM Processing Timetable

Event Markers	Max Allowable Days	Total Elapsed Days
Preferral of Charges TO Referral of Charges to SCM	3	3
Referral of Charges to SCM TO Trial	14	17
Completion of Trial TO Action by Convening Authority	7-27*	24-44
Action by Convening Authority TO Receipt of Record of Trial At OSJA for Review	2	26-46

* The accused has a right to submit matters for consideration to the convening authority within time limits imposed by R.C.M. 1105(c). An accused has the right to submit matters to the convening authority for consideration within seven days after the sentencing. The convening authority may extend this period for not more than 20 additional days for good cause. Action by the convening authority may be taken after submission of R.C.M. 1105 matters or 7 days after sentencing without submission of matters.

Appendix B -- SPCM AND SPCM/BCD Processing Timetable

Event Markers	Max Allowable Days	Total Elapsed Days
Restriction or PTC TO Preferral of Charges	1	1
Preferral of Charges TO Receipt of Charges and Allied Papers with CoC Recommendations by OSJA	5	6
Receipt of Charges and Allied Papers with CoC Recommendations by OSJA TO Referral of Charges to SPCM	10	16
Referral of Charges to SPCM TO Receipt of Charges and Allied Papers by OSJA	1	17
Receipt of Charges and Allied Papers by OSJA TO Trial Date	TBD by MJ*	17 + MJ
Trial Date TO Record of Trial and Submission to Counsel and Military Judge for Authentication	25	42 + MJ
Authentication of Record of Trial TO Action by Convening Authority	45**	87 + MJ
Action by Convening Authority TO Mailing of ROT to Clerk of Court	3	90 + MJ

* Military Judge (MJ) is time allowed for docketing of all courts-martial and is not controlled by the OSJA.

** Unless the accused has waived the right to submit matters under RCM 1105(d), action by convening authority may not be taken earlier than 10 days after service on the accused of the record of trial, the post-trial recommendation, or an addendum to the recommendation containing new matter, whichever is later. The accused has a right to submit matters to the convening authority for consideration within such time limits pursuant to R.C.M. 1105(c)(1). The convening authority may extend this period for not more than 20 additional days for good cause.

Appendix C -- GCM Processing Timetable

Event Markers	Max Allowable Days (No PTC)	Total Elapsed Days (No PTC)	Max Allowable Days (PTC)	Total Elapsed Days (PTC)
Restriction or PTC TO Preferral of Charges	3	3	1	1
Preferral of Charges TO Appointment of Article 32 IO	2	5	1	2
Appointment of Article 32 IO TO Submission of Report of Investigation (ROI) to Appointing Authority	14	19	4	6
Submission of ROI to Appointing Authority TO Receipt of ROI and CoC Recommendations by OSJA	2	21	1*	7
Receipt of ROI and CoC Recommendations by OSJA TO Referral of Charges to GCM	10	31	10	17
Referral of Charges to GCM TO Receipt of Charges and Allied Papers by OSJA	1	32	1	18
Receipt of Charges and Allied Papers by OSJA TO Trial Date	TBD by MJ**	32 + MJ	TBD by MJ**	18 + MJ
Trial Date TO Record of Trial and Submission to Counsel and Military Judge for Authentication	25	57 + MJ	25	43 + MJ

GCM Processing Timetable—Cont'd

Event Markers	Max Allowable Days (No PTC)	Total Elapsed Days (No PTC)	Max Allowable Days (PTC)	Total Elapsed Days (PTC)
Authentication of Record of Trial TO Action by Convening Authority	45***	102 + MJ	45***	88 + MJ
Action by Convening Authority TO Mailing of ROT to Clerk of Court	3	105 + MJ	3	91 + MJ

* Article 33, UCMJ, requires that if an accused has been ordered into PTC or arrest and is being held for possible trial by GCM, the charges, report of investigation, and allied papers shall be forwarded to the officer exercising GCM jurisdiction within eight days after the accused has been placed in confinement or under arrest. If this is not practicable, the commanding officer shall report the reasons for the delay in writing to the officer exercising GCM jurisdiction.

** Military Judge (MJ) is time allowed for docketing of all courts-martial and uncontrollable by the OSJA.

*** Unless the accused has waived the right to submit matters under RCM 1105(d), action by convening authority may not be taken earlier than 10 days after service on the accused of the record of trial, the post-trial recommendation, or an addendum to the recommendation containing new matter, whichever is later. The accused has a right to submit matters to the convening authority for consideration within such time limits pursuant to R.C.M. 1105(c)(1). The convening authority may extend this period for not more than 20 additional days for good cause.

Appendix D – Glossary

Abbreviations

AIT

Advanced Individual Training

AR

Army Regulation

ARNG

Army National Guard

CPNCO

Chief Paralegal Noncommissioned Officer

DUI

Driving Under the Influence

ERB

Enlisted Record Brief

GCM

General Court-Martial

GCMCA

General Court-Martial Convening Authority

IAW

In accordance with

IO

Investigating Officer

MOS

Military Occupational Specialty

MP

Military Police

NCO

Noncommissioned Officer

NCOIC

Noncommissioned Officer-in-Charge

NET

No earlier than

NETCOM

U.S. Army Network Enterprise Technology Command and 9th Army Signal Command

NLT

No later than

ORB

Officer Record Brief

OSJA

Office of the Staff Judge Advocate

PTC

Pretrial Confinement

R.C.M.

Rules for Courts-Martial

SCM

Summary Court-Martial

SPCM

Special Court-Martial

SPCM/BCD

Special Court-Martial empowered to adjudge a Bad-Conduct Discharge

SPCMCA

Special Court-Martial Convening Authority

SJA

Staff Judge Advocate

TDS

Trial Defense Service

TDY

Temporary Duty

TRADOC

U.S. Army Training and Doctrine Command

UCMJ

Uniform Code of Military Justice

US

United States

USAIC&FH

U.S. Army Intelligence Center and Fort Huachuca

USATDS

United States Army Trial Defense Service

U.S.C.

United States Code

VWL

Victim-Witness Liaison

(ATZS-IMI-IP)



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